

REMARKS

This is a response to the final Office Action dated February 24, 2005.

Claims 11, 12, 14-17 and 19-24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the 3GPP document in view of Okumura et al. The 3GPP document provides a discussion at page 19, section 4.2.4 of rate matching which applies repetition and puncturing of different transport channels. Specifically, it is stated that for each combination of rates of different transport channels, a "puncturing/repetition factor" is assigned to each transport channel. Furthermore, section 4.2.4.1 of this reference refers to a factor P, which denotes a maximum amount of puncturing allowed (e.g., 0.2 for downlink and uplink). Accordingly, this passage regarding a puncturing/repetition factor simply provides no disclosure or suggestion whatsoever of a system including a transmitter and receiver, or method of operating such a system, which involves selecting a rate matching pattern depending on an associated bit deletion or repetition pattern that is selected to ensure that deleted or repeated bits of a data block are not required to enable all bits from a digital input to be reconstructed.

Section 4.2.4 of the reference further states that one criterion for a set of puncturing/repetition factors for different transport channels is fulfilling a desired transmission quality requirement. From this, the Examiner asserts that a quality of transmission requirement can only be achieved by ensuring that none of the required bits for error correction coding are lost, that is, by ensuring that sufficient bits to reconstruct the original data exist at the decoder. Applicant respectfully submits that this conclusion could only be made with the use of hindsight gained impermissibly from the present invention. Generally, the use of hindsight knowledge derived from the applicant's own disclosure to support an obviousness rejection under 35 U.S.C.

§ 103 is impermissible. See, for example, W. L. Gore and Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Furthermore, section 4.2.4 of the reference explains that the criteria for fulfilling a desired transmission quality requirement for each transport channel means that required transmission power to meet quality requirements for all transport channels should be as low as possible. Thus, the reference by its own words explains that it is only concerned with keeping transmission power as low as possible. This could hardly be said to be a teaching to the person of ordinary skill in the art to select a rate matching pattern depending on an associated bit deletion or repetition pattern that is selected to ensure that deleted or repeated bits of a data block are not required to enable all bits from a digital input to be reconstructed, as set forth in independent claims 11 and 24. Withdrawal of the rejection is therefore respectfully requested.

Claims 13, 18, 25 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the 3GPP document and Okumura et al. in view of U.S. patent 5,978,365 to Yi. Yi is cited by the Examiner as showing puncturers 1405A, 1405B that provide puncturing matrixes. However, the Examiner has not indicated how each of the features of the claims are disclosed or suggested by the prior art. The Office has therefore not met its burden to set forth a *prima facie* conclusion of obviousness. MPEP 2142. In particular, claims 13, 18, 25 and 26 recite more than a puncturing matrix. Claim 13, for example, sets forth that a rate matching pattern for each interleaved word within a data block is offset with respect to a rate matching pattern of an adjacent interleaved word or words within the data block. The Examiner is respectfully requested to cite where the identified feature is disclosed or suggested by the prior art, or to withdraw the rejection.

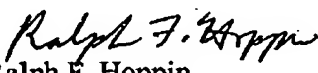
Furthermore, regarding claim 18, the cited references fail to disclose or suggest a rate matching pattern that includes change bits for deleting or repeating bits of a data block, where the change bits are offset with respect to each other along adjacent columns of a matrix of the rate matching pattern. Regarding claims 25 and 26, the cited references fail to disclose or suggest a rate matching pattern that includes change bits for deleting or repeating bits of a data block, where the change bits are offset with respect to each other along adjacent columns of a matrix of the rate matching pattern. Withdrawal of the rejection is therefore respectfully requested.

Claims 11-24 have been rejected under the judicially created doctrine of double patenting in view of claims 1-19 of U.S. patent 6,671,851. Without conceding to the propriety of the rejection, Applicant is filing a terminal disclaimer herewith to allow the application to proceed to issuance.

Withdrawal of the rejection is therefore respectfully requested.

In view of the foregoing remarks herein, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance be issued. If the Examiner believes that a telephone conference with the Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


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